From: California Peace Officers" Association
To: Ralleta, Zaldy (SHF)
Subject: CPOA Client Alerts Tuesday April 2, 2019
Date: Tuesday, April 02, 2019 2:09:46 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

View in a browser

California Peace Officers Association

WARRANTLESS PLACEMENT OF A GPS TRACKER ON A PAROLEE'S CAR WAS PERMISSIBLE IN LIGHT OF UNITED STATES V. JOHNSON

Courtesy of James R. Touchstone, Esq.
In the March 15, 2019, in the case of United States v. Korte, the Ninth Circuit Court of Appeals affirmed a District Court's denial of a defendant parolee's motions to suppress. The Court of Appeals held that the warrantless placement of a GPS tracker on the parolee's car did not violate the Fourth Amendment. While acknowledging the general rule expressed by the United States Supreme Court in United States v. Jones, that installing a GPS tracker on a car constitutes a search typically requiring a warrant, the Ninth Circuit followed precedent distinguishing Fourth Amendment rights in the parolee context in reaching its decision.

Background

Defendant Kyle Korte was paroled in August 2016 after having served time in state prison for bank robbery. As a parolee in California, Korte was "subject to search or seizure . . . at any time of the day or night, with or without a search warrant or with or without cause" under Penal Code section 3067(b)(3). In October 2016, Korte acknowledged his parole conditions, including that he was now subject to searches of "[y]ou, your residence, and any property under your control."

Also in October 2016, the Los Angeles Sheriff's Department ("LASD") began investigating a series of bank robberies. From robbery surveillance video, LASD came to suspect Korte as the masked robber involved in some of the robberies. In November 2016, without a warrant or Korte's consent, LASD placed a Global Positioning System ("GPS") tracker on Korte's car and tracked the car's movements over a six-day period. At about that time, the Government also obtained a court order under the Stored Communications Act ("SCA") to acquire Korte's cell site location information ("CSLI"). An officer saw Korte, after seeming to surveil a bank, open his trunk and place something inside. Soon after, officers arrested Korte and searched the car, including the trunk. They found a toy gun used during the armed robberies.

A grand jury indicted Korte for attempted bank robbery and three counts of bank robbery. Korte pleaded not guilty and moved to suppress (1) the evidence found in his car's trunk, (2) the information derived from the GPS tracker on his car, and (3) his CSLI. Denying all three

suppression motions, District Court reasoned that Korte's parole status permitted the warrantless search of the trunk and placement of the GPS tracker on his car. The District Court also determined that even if the acquisition of CSLI information violated Korte's Fourth Amendment rights, the good-faith exception clearly applied based on the case law at that time. The jury returned a guilty verdict as to all four counts and Korte was sentenced to 210 months in prison. Korte appealed, challenging the denial of his suppression motions before trial.

Discussion

In reaching its decision, the Ninth Circuit Court of Appeals explained that a search of a parolee that complies with the terms of a valid search condition will "usually be deemed reasonable under the Fourth Amendment." United States v. Cervantes, 859 F.3d 1175, 1183 (9th Cir. 2017). Under California Penal Code section 3067(b)(3), every parolee "is subject to search or seizure . . . at any time of the day or night, with or without a search warrant or with or without cause." In Samson v. California, the United States Supreme Court upheld California's Section 3067(b)(3) because parolees "have severely diminished expectations of privacy by virtue of their status alone" — even less than probationers — and because "[t]he State's interests" in supervising parolees and reducing recidivism "are substantial." The Court then considered the District Court's denials of Korte's motions to suppress the searches with respect to his car trunk, the GPS tracker on the car, and the acquisition of Korte's CSLI.

Car Trunk Search

On appeal, Korte argued that a lawful parole search of his car did not extend to the trunk because the trunk was not "property under [his] control," as per his parole conditions. Rejecting this "narrow interpretation," the Ninth Circuit explained that the Korte's uncontested control over the car was sufficient to permit a warrantless search of its trunk. The Court also found, regarding the trunk itself, that Korte's conduct illustrated a sufficiently close "nexus between the parolee and the area or items searched" when officers observed him putting things inside the trunk.

The Court of Appeals explained that Fourth Amendment precedent on the matter was in accord with this analysis. The Court noted that the California Supreme Court, in People v. Lilienthal, had already rejected Korte's proposed distinction between a car and a trunk in the context of a probationer who was, as such, entitled to more Fourth Amendment protection than a parolee like Korte. The Court observed that a warrantless search of his home, typically the "apex of constitutionally protected places," was valid under the terms of Korte's parole. Quoting the District Court in summation, the Ninth Circuit rhetorically asked, "If an individual's residence falls within the scope of an appropriate search under the parolee provisions, how would a trunk not?" Accordingly, the Court affirmed with regards to lawfulness of the trunk search.

GPS

The Court of Appeals accepted that Jones held that typically installing a GPS tracker on a car requires a warrant. And the United States Supreme Court held in Riley v. California that the warrantless search of an arrestee's cell phone was unlawful, emphasizing the significant privacy intrusion that arose when searching a person's cell phone. However, the Ninth Circuit explained that its prior decision in United States v. Johnson, 875 F.3d 1265 (9th Cir. 2017), "instructs us not to necessarily apply a newly established Fourth Amendment protection to parolees." Johnson held that Riley did not apply to parolees because "the balance of privacy interests and factual circumstances in this context are different."

In light of Johnson and considering the fact that a GPS contains none of the "vast quantities of personal information" that a cell phone does, the Ninth Circuit found it could not find that the

warrantless placement of a GPS tracker on a parolee's car was impermissible; placing a GPS device on a parolee's car could not logically demand more constitutional protection than the protection afforded to a parolee's cell phone. The Court added that the State's "substantial" interests in "reducing recidivism," "promoting reintegration," and deterring future criminal conduct of parolees was also especially strong. Here, Korte resumed criminal activity in the months after his release and the Los Angeles Sheriff's Department was able to investigate Korte by monitoring his movements.

Finally, standing state court precedent in People v. Zichwic held that even "assum[ing] that attaching an electronic tracking device to the undercarriage of defendant's truck constituted a search, it was authorized by defendant's parole search condition." For these several reasons, the Ninth Circuit consequently held the warrantless placement of the GPS tracker on Korte's car was not a Fourth Amendment violation.

CSLI

Regarding CSLI, the Ninth Circuit observed that the United States Supreme Court had not yet issued its decision in Carpenter v. United States when the District Court considered Korte's motion to dismiss. Carpenter held that the Government must obtain a warrant to access a person's CSLI from a wireless carrier; a court order was no longer acceptable to authorize CSLI acquisition.

In its pre-Carpenter analysis, the District Court had held that the good-faith exception to the exclusionary rule clearly applied then, and therefore denied Korte's motion to exclude Korte's CSLI. The Ninth Circuit explained that Illinois v. Krull established that evidence obtained by the Government, acting in "objectively reasonable reliance upon a statute" that is "ultimately found to violate the Fourth Amendment," does not require suppression. This is known as the good-faith exception. The Ninth Circuit held that CSLI acquired before Carpenter was admissible under the good-faith exception to the exclusionary rule so long as the Government satisfied the SCA's then-lawful requirements, which the Court determined had been done.

Finding all three searches valid, the Ninth Circuit Court of Appeals accordingly affirmed.

HOW THIS AFFECTS YOUR AGENCY

This case adds to the precedent drawing distinctions between the general public, probationers, and parolees with regards to Fourth Amendment rights as they pertain to electronic information. Agencies should be aware of these distinctions in consideration of the reasonable expectation of privacy under evolving law. Courts have granted some latitude to government officials with regards to the parolees' GPS tracking information when warrantless search conditions apply. This decision further clarifies law enforcement's obligations in this area of Fourth Amendment law.

[1] 2019 U.S. App. LEXIS 7672 (9th Cir. Mar. 15, 2019).
[2] 565 U.S. 400, 404, (2012).
[3] 18 U.S.C. section 2703(d).
[4] 547 U.S. 843, 846 (2006).
[5] Id. at 852-53.
[6] See United States v. Grandberry, 730 F.3d 968, 980 (9th Cir. 2013) (defining "property under [a parolee's] control").
[7] People v. Schmitz, 55 Cal. 4th 909, 923 (Cal. 2012).
[8] 22 Cal. 3d 891 (Cal. 1978).
[9] 573 U.S. 373 (2014).
[10] 875 F.3d at 1275.

[11] Samson v. California, 547 U.S. 843 (2006).
[12] 94 Cal. App. 4th 944 (6th Dist. 2001).
[13] 138 S. Ct. 2206 (2018).
[14] 480 U.S. 340 (1987).

As always, if you wish to discuss this matter in greater detail, please feel free to contact James R. Touchstone at (714) 446–1400 or via email at jrt@jones-mayer.com.

Information on www.jones-mayer.com is for general use and is not legal advice. The mailing of this Client Alert Memorandum is not intended to create, and receipt of it does not constitute, an attorney-client-relationship.

COURT FINDS THAT STATE LAW REQUIRING SHERIFFS TO HAVE LAW ENFORCEMENT EXPERIENCE IS CONSTITUTIONAL

Courtesy of James R. Touchstone, Esq.
In an opinion filed on March 18, 2019, the California Second District Court of Appeal in Boyer v. Cnty. of Ventura held that certain law enforcement experience and education requirements for a person to be elected county sheriff as specified in Government Code section 24004.3 were constitutional. The Court determined that constitutional, statutory, and case law compelled its decision to affirm the trial court's decision.

Background

In February 2018, Bruce Boyer applied to be included on the ballot for Ventura County Sheriff in the next primary election. Ventura County Clerk Mark Lunn informed Boyer four days later that Boyer, who had no law enforcement experience, had failed to submit documents that established his qualifications to run for county sheriff, as required by Elections Code 13.5 and Government Code section 24004.3. Boyer replied that the statutes were unconstitutional and that Lunn's refusal denied citizens the right to choose the elected officials they wanted.
In late March 2018, Boyer filed a petition for writ of mandate to compel Ventura County ("County") and Lunn to place Boyer on the June 5, 2018 primary election ballot for county sheriff. Boyer served the writ in April 2018, four days after County Clerk Mark Lunn was required by federal and state law to submit the ballot materials to the printer. Lunn later declared that changing the ballots at that late a date would cost between $800,000 and $1 million, and require that 430,000 sample ballots and 1,105,735 ballot cards be reprinted. The trial court ruled that Government Code section 24004.3 was constitutional and denied the petition. The court further determined the submission of the petition was untimely and thus barred by the doctrine of laches. Boyer appealed, arguing Section 24004.3 violated state and federal laws.

Discussion

The Second District Court of Appeal affirmed the trial court's holding that Government Code section 24004.3 was constitutional. The Court of Appeal determined that "constitutional, statutory, and case law compel affirmance."

California Constitution Article III, Section 3.5(a) provides: "An administrative agency has no power[] … [t]o declare a statute unenforceable, or refuse to enforce a statute, on the basis of it being unconstitutional unless an appellate court has made a determination that such statute is unconstitutional." As no such determination existed, the Court correspondingly held that Lunn could not have declared Section 24004.3 unconstitutional or have refused to enforce it.

The Court explained that, as county clerk, Lunn had a ministerial duty to follow Elections Code section 13.5. The section states that a legally qualified candidate for sheriff must file a declaration of candidacy accompanied by documentation that the person meets the statutory qualifications to run as county sheriff as set forth in Government Code section 24004.3. Government Code section 24004.3, in turn, sets forth the law enforcement experience and education qualifications required of a candidate running for county sheriff. Specifically, a candidate for sheriff must possess one of five combinations of education and law enforcement experience – and Boyer had no law enforcement experience.

Relying on Wallace v. Superior Court's holding that "it …is beyond the power of the Legislature to add [a particular] qualification in view of the fact that the Constitution has established the exclusive qualifications that can be required for the office of superior court judge," Boyer argued that the Legislature similarly lacked the power to "add" candidate ballot qualifications for county sheriff since the state Constitution does not require that county sheriff candidates have prior law enforcement experience. However, the Court explained that California Constitution, article XI, section 1(b) states: "The Legislature shall provide for … an elected county sheriff…in each county." The Second District explained that "the Legislature enjoys plenary legislative powers unless there is an explicit prohibition of legislative action in the Constitution itself," including the express power to set candidacy requirements for the elected office of county sheriff. The difference between the election of superior court judge discussed in Wallace and the office of county sheriff here is, the Court explained, that the state constitution itself directs the Legislature to provide for the election of county sheriff. The Court explained further that, in enacting Section 24004.3, the Legislature had used its legitimate power to set forth the present qualifications for ballot candidates running for county sheriff. Thus, the Court found that Section 24004.3 was not in conflict with the California Constitution.

Boyer also argued on appeal that Section 24004.3 violated the First Amendment by restricting the pool of sheriff candidates to law enforcement personnel, which excluded civilian views from being expressed. Boyer considered candidacy for office to be a fundamental right. However, the Court determined that the free speech claim failed because the state had a strong interest in ensuring officeholder qualifications. The Court agreed with the Sixth District's views expressed in Rawls v. Zamora pertaining to the office of county sheriff: "There can be no doubt that the state has a strong interest in assuring that a person with aspirations to hold office is qualified to administer the complexities of that office.[]And the authority of the state to determine the qualifications of their most important governmental officials is an authority that lies at the heart of representative government." Rawls concluded that Section 24004.3 "does not significantly impair access to the ballot—there are five broad qualifications, which embrace people of varying experience. The section does not stifle speech or dictate electoral outcome in any sense."

The Court also found support for the trial court's laches finding. The Second District Court of Appeal accordingly affirmed.

HOW THIS AFFECTS YOUR AGENCY

Boyer affirms the constitutionality of Section 24004.3's law enforcement experience requirements for county sheriff candidates. In this case, the Court conveyed appreciation for the value law that enforcement experience confers: "There is a good reason why the Legislature has imposed an experience requirement. To get a 'feel' for law enforcement, i.e., coming to a true understanding of it, you must learn about it in the field by doing it. The People of California have been well served by personnel who have worked their way up the chain of command to leadership. Such personnel have years of practical experience." Boyer further settles the issue that the combinations of experience and education set forth in Section 24004.3 are crucial to administration of the complex office of county sheriff and elucidates this matter for all who consider running for such office.

[1] 2019 Cal. App. LEXIS 218 (2nd Dist. Mar. 18, 2019).
[2] Government Code Section 24004.3 provides:
24004.3. (a) No person is eligible to become a candidate for the office of sheriff in any county unless, at the time of the final filing date for election, he or she meets one of the following criteria:
(1) An active or inactive advanced certificate issued by the Commission on Peace Officer Standards and Training.
(2) One year of full-time, salaried law enforcement experience within the provisions of Section 830.1 or 830.2 of the Penal Code at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses a master's degree from an accredited college or university.
(3) Two years of full-time, salaried law enforcement experience within the provisions of Section 830.1 or 830.2 of the Penal Code at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses a bachelor's degree from an accredited college or university.
(4) Three years of full-time, salaried law enforcement experience within the provisions of Section 830.1 or 830.2 of the Penal Code at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses an associate in arts or associate in science degree, or the equivalent, from an accredited college.
(5) Four years of full-time, salaried law enforcement experience within the provisions of Section 830.1 or 830.2 of the Penal Code at least a portion of which shall have been accomplished within five years prior to the date of filing, and possesses a high school diploma or the equivalent.
(b) All persons holding the office of sheriff on January 1, 1989 shall be deemed to have met all qualifications required for candidates seeking election or appointment to the office of sheriff.
[3] 141 Cal.App.2d 771, 774 (3rd Dist. 1956).
[4] Marine Forests Society v. California Coastal Com., 36 Cal.4th 1, 39 (2005).
[5] 107 Cal.App.4th 1110, 1117 (6th Dist. 2003).

As always, if you wish to discuss this matter in greater detail, please feel free to contact James R. Touchstone at (714) 446–1400 or via email at jrt@jones-mayer.com.

Information on www.jones-mayer.com is for general use and is not legal advice. The mailing of this Client Alert Memorandum is not intended to create, and receipt of it does not constitute, an attorney-client-relationship.

SHERIFF'S ISSUANCE OF MEMORANDUM RESTRICTING DEPARTMENT COMMUNICATIONS WITH ICE WAS A PROTECTED DISCRETIONARY ACT UNDER CALIFORNIA GOVERNMENT CODE SECTION 820.2

Courtesy of James R. Touchstone, Esq.
In an opinion issued on March 25, 2019, in the case entitled Steinle v. City & Cnty. of S.F. , the Ninth Circuit determined that the question of discretionary immunity raised was controlled by California law, and concluded that Government Code section 820.2 barred plaintiffs' negligence claim. The Sheriff's issuance of the memorandum at issue, the Court found, was a discretionary act entitled to immunity.

Background

In February 2015, San Francisco Sheriff Mirkarimi informed the federal government that the Sheriff's Department would not honor Immigration and Customs Enforcement ("ICE") detainer requests or notify ICE of the pending release of any undocumented alien unless a judicial order or warrant was issued for the alien's removal. In a March 13, 2015 memorandum (the "Memo") to all

Sheriff's Department employees, the Sheriff established protocols and parameters for communications between Sheriff's Department employees and ICE. The Memo changed the "longstanding policy and procedure" of the Sheriff's Department "to freely provide information to ICE regarding undocumented immigrant felons in custody." The Memo stated that employees "shall not provide" "non-public" information to ICE, including "release dates or times," but that employees were authorized to provide certain "public" information to ICE. Disclosure of any information beyond the public information explicitly authorized by the Memo would require consultation with the Sheriff's Department's legal counsel, confirmation by counsel that disclosure was required by court order or law, and authorization by Sheriff Mirkarimi.

The Memo referenced Chapter 12H of the San Francisco Administrative Code, otherwise known as the "Sanctuary City Law." The Sanctuary City Law limits information that San Francisco and its officers and employees may share with federal immigration officials, but it includes an exception for cooperation as required by state or federal law. The Court noted, "[i]t also allows, but does not require, communication and cooperation with federal authorities regarding individuals previously convicted of felonies. The Memo, however, contained no exception regarding individuals previously convicted of felonies."

Juan Francisco Lopez-Sanchez was an undocumented alien with a criminal record consisting of at least seven felony convictions from 1993 to 2011 related to controlled substances and illegal reentry after deportation. He was removed to Mexico at least five times during this period. After a 46-month sentence in federal prison, Lopez-Sanchez was released to Sheriff's Department custody on March 26, 2015, to face felony charges for selling marijuana.

The charges against him were dropped on March 27, 2015, and on that same day, ICE sent a detainer request asking the Sheriff's Department to notify ICE 48 hours before releasing Lopez-Sanchez and to hold him until ICE could take custody of him. The Sheriff's Department ignored the detainer request, releasing Lopez-Sanchez without notifying ICE on April 15, 2015. After his release, Lopez-Sanchez acquired a stolen government-issued handgun and approximately two and one-half months after he had been released by the Sheriff's Department, he shot and killed 32-year-old Kathryn Steinle in San Francisco. Lopez-Sanchez did not apparently know Steinle. After the shooting, ICE stated that local authorities could have prevented the killing by "merely notify[ing]" ICE.

Steinle's parents, James Steinle and Elizabeth Sullivan ("Plaintiffs") filed a complaint against the City and County of San Francisco and Sheriff Ross Mirkarimi (collectively, "City Defendants"), alleging general negligence. The District Court granted City Defendants' subsequent motion to dismiss all claims pursuant to Government Code sections 815.2(b) and 820.2 without leave to amend. The District Court concluded that the issuance of the Memo was an immune discretionary act. The Plaintiffs appealed, challenging only the dismissal of Plaintiffs' general negligence claim against City Defendants.

Discussion

California Government Code section 820.2 provides: "[A] public employee is not liable for an injury resulting from his act . . . where the act . . . was the result of the exercise of the discretion vested in him, whether or not such discretion be abused." The Ninth Circuit held that the issuance of the Memo was a discretionary act that was entitled to immunity under Section 820.2, and that City Defendants were immune from liability. In reaching its decision, the Court explained that it made "no judgment as to whether or not the policy established by the Memo was wise or prudent. That is not our job. 'A federal court applying California law must apply the law as it believes the California Supreme Court would apply it.' Gravquick A/S v. Trimble Navigation Int'l Ltd., 323 F.3d 1219, 1222 (9th Cir. 2003)."

Citing California Supreme Court cases, the Court initially explained that the "[i]mmunity is reserved for those 'basic policy decisions which have been expressly committed to coordinate branches of government,' and as to which judicial interference would thus be 'unseemly.' Such 'areas of quasi-legislative policy-making are sufficiently sensitive' to call for judicial abstention from interference that 'might even in the first instance affect the coordinate body's decision-making process[.]'" (Caldwell v. Montoya, quoting Johnson v. State of California.) The Court also explained that an actual use of discretion must be involved for immunity to attach to the public employee.

Here, the Ninth Circuit found that the Memo, on its face, reflected a "basic policy decision" that had been expressly committed to a coordinate branch of government. The Sheriff chose to issue the Memo, and he had "sole and exclusive authority to keep the county jail and the prisoners in it" under Cal. Gov't Code section 26605. The Court also found an actual use of discretion by the Sheriff because he considered relevant laws and regulations, decided what information should and should not be shared with ICE, and consciously changed longstanding policy and procedure to freely provide information to ICE. The Court added that the debate over policies that limited cooperation with immigration authorities suggested that the issue was "sufficiently sensitive" such that judicial interference into the matter would be "unseemly."

The Court then turned to Plaintiffs' other arguments. Plaintiffs argued that the District Court improperly took judicial notice of the Memo's contents, though plaintiffs' claim was based upon the Memo and the plaintiffs referred "extensively" to the Memo throughout earlier proceedings. The Ninth Circuit found that the District Court properly considered the Memo under the incorporation by reference doctrine, which permits a court to consider a document "if the plaintiff refers extensively to the document or the document forms the basis of the plaintiff's claim." United States v. Ritchie, 342 F.3d 903, 908 (9th Cir. 2003).

The Court rejected plaintiffs' arguments that the Sheriff did not have discretionary authority to issue the Memo, and therefore, was not entitled to immunity. The Court held that although 8 U.S.C. sections 1373(a) and 1644 prohibit restrictions on providing certain types of information to ICE, they "plainly and unambiguously" did not prohibit the restriction of release-date information; the sections' use of the statutory term "immigration status" could not encompass release-date information.

Plaintiffs also contended that the Sheriff's actions hampered ICE's ability to assert its functions and so "invaded" federal governmental immigration authority. However, the Court held that, even assuming ICE was indeed hampered by the Memo's issuance, plaintiffs did not show any authority that required the Sheriff to provide ICE with the release date.

Nor was the issuance of the Memo, a legislative act which the plaintiffs argued would negate the Sheriff's immunity for exceeding his authority. The Court explained that an action by a government official that involves some weighing of policy is not the equivalent of a legislative act. The Court also found that the plaintiffs' claim of a California Public Records Act ("CPRA") violation lacked merit because ICE's detainer request to the Sheriff was not a request for a copy of records under the CPRA. The Court explained that the CPRA does not require public agencies to create records, and there was no allegation that the Sheriff's Department had withheld an existing record with release-date information at the time of the detainer request.

The Court also held that the District Court correctly held that California Health and Safety Code section 11369 was inapplicable because the Sheriff's Department was not the "arresting agency," and Section 11369 did not require transmission of an inmate's release date to ICE. Finally, the Court rejected plaintiffs' claim that other local laws prohibited the Sheriff from limiting cooperation with ICE because none contained text that could be construed as prohibiting the issuance of the

Memo or requiring that the Sheriff provide release-date information to ICE.

The Court thus concluded the issuance of the Memo was a discretionary act entitling City Defendants to Section 820.2 immunity. Accordingly, the Ninth Circuit Court of Appeals affirmed the decision of the District Court.

HOW THIS AFFECTS YOUR AGENCY

The Court acknowledged that Steinle's death was "tragic and unnecessary" and that her death might "well underscore the policy argument against Sheriff Mirkarimi's decision to bar his employees from providing the release date of a many-times convicted felon to ICE." However, the Court in this case emphasized that such policy arguments could be acted upon "only by California's state and municipal political branches of government, or perhaps by Congress—but not by federal judges applying California law as determined by the California Supreme Court."

Agencies should take note of the reluctance of the Ninth Circuit to judicially intervene in areas deemed to be the terrain of other branches of government, or else risk establishing a standard that would "swallow an immunity designed to protect against claims of carelessness, malice, bad judgment, or abuse of discretion in the formulation of policy." The Court was unwilling to engage in attempting to override policy decisions left to another branch of government.

[1] 2019 U.S. App. LEXIS 8784 (9th Cir. Mar. 25, 2019)
[2] The Court later explained, "However, this section does not, by express provision or implication, mandate that the Sheriff (or any other officer) provide information to ICE regarding a convicted felon —it simply makes clear that the Chapter does not prohibit the same. As the Chapter does not bar the Memo, it cannot have the effect of stripping the Sheriff of his discretionary authority."
[3] Section 815.2(b): "Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability."
[4] 10 Cal. 4th 972 (1995).
[5] 69 Cal. 2d 782, 793-4 (1968).

As always, if you wish to discuss this matter in greater detail, please feel free to contact James R. Touchstone at (714) 446–1400 or via email at jrt@jones-mayer.com.

Information on www.jones-mayer.com is for general use and is not legal advice. The mailing of this Client Alert Memorandum is not intended to create, and receipt of it does not constitute, an attorney-client-relationship.

California Peace Officers Association
2485 Natomas Park Drive, Suite 540
Sacramento, CA 95833
Email us | 916.263.0541 | Visit our website
Update Your Preferences | Unsubscribe